

1 CELIA McGUINNESS, ESQ. (SBN 159420)
2 *cmcguinness@dmglawfirm.com*
3 *eservice@dmglawfirm.com*
4 DEBORAH GETTLEMAN, ESQ. (SBN 267309)
5 *dgettlemann@dmglawfirm.com*
6 DERBY, McGUINNESS & GOLDSMITH, LLP
1999 Harrison Street, Suite 1800
Oakland, CA 94612
Telephone: (510) 987-8778
Facsimile: (510) 359-4414

7 Attorneys for Plaintiff
8 SUMAYA MUGHANNAM

9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11
12 SUMAYA MUGHANNAM

13 Plaintiff,

14 v.

15 BADII, LLC, a California Limited
16 Liability Company, and GREGORY
17 BOOTH MAPLES, an Individual.
Defendants.

CASE NO.

Civil Rights

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES**

**1. Violation of the Americans with Disabilities
Act**

2. Violation of the Disabled Persons Act

3. Violation of the Unruh Civil Rights Act

DEMAND FOR JURY TRIAL

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21
22 **INTRODUCTION**

23 Defendants Gregory Booth Maples and his business Defendant Badii, LLC, who jointly
24 and severally own and operate the Jaded Toad BBQ & Grill, have discriminated against Plaintiff
25 Sumaya Mughannam, a person with a disability, by refusing to allow her service dog in the
26 restaurant, asserting the restaurant prohibits all dogs without exception. Defendant Maples
27 refused Plaintiff service, refused to listen to Plaintiff's explanation that the ADA allows her to
28 bring her service dog into restaurants, and told her to call the police if she didn't like it.

1 Defendants also ignored her pre-litigation efforts to provide them information about service dog
2 rights under the law. Defendants' behavior violated Plaintiff's civil rights and caused Plaintiff
3 great embarrassment and distress. She seeks an injunction to order Defendants into compliance
4 with federal and state law, and damages.

5 JURISDICTION AND VENUE

6 1. This Court has jurisdiction over the claims brought under federal law pursuant to
7 28 U.S.C. §§ 1331. This Court has jurisdiction over the pendent state law claims pursuant to 28
8 U.S.C. § 1367.

9 2. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) because Plaintiff's
10 claims arose within this District and Defendant's business is located in this District.

11 PARTIES

12 3. At all times herein relevant, Ms. Mughannam was a person with a disability as
13 defined by state and federal law. 42 U.S.C. § 12102; Cal. Gov't Code § 12926(l). She has been
14 diagnosed with a mental health condition that substantially affects her ability to perform major
15 life activities, including mental, social, and work activities such as handling daily routines and
16 going into public. She cannot perform these activities in the same manner and duration as the
17 average person. Moreover, she has a history of, has been diagnosed with and is classified as
18 having a mental health condition. Her doctor has recommended that she use a psychiatric service
19 dog to ameliorate the symptoms of her condition.

20 4. Ms. Mughannam's service dog, Jax, is individually trained to do work that is
21 directly related to Ms. Mughannam's disability. Jax performs a task called "grounding" that is a
22 common and usual psychiatric service dog task.

23 5. Defendant Badii, LLC, is, and at all times mentioned herein was, a domestic
24 corporation existing and/or doing business under the laws of the State of California. It owns and
25 operates The Jaded Toad BBQ and Grill in Cotati, California, which is a public accommodation
26 open to the public under federal and state law. It operates as a business establishment under
27 California law because it provides goods, services and facilities in exchange for money.

28 6. Defendant Gregory Booth Maples ("Maples") is the owner of Defendant Badii,

1 LLC, and the owner and operator of the The Jaded Toad BBQ and Grill, (“The Jaded Toad”)
 2 through the LLC. He is listed at the Secretary of State’s office as the sole member of Defendant
 3 Badii, LLC. On information and believe, based upon information available to the public,
 4 Defendant Maples controls Defendant Badii, LLC and controls the operations of The Jaded
 5 Toad.

6 7. Plaintiff is informed and believes that each of the Defendants herein is the agent,
 7 servant, employee, representative, joint venturer and/or common enterprise affiliate of each of the
 8 other Defendants, and performed all acts and omissions stated herein within the scope of such
 9 agency or employment or representative capacity or joint venture or common enterprise, and is
 10 responsible, in some manner, for the acts and omissions of the other Defendants in proximately
 11 causing the damages complained of herein.

12 8. Plaintiff is informed and believes, and on that basis alleges, that each of the named
 13 Defendants and each of the fictitiously named Defendants are legally responsible in some manner
 14 for the occurrences herein alleged, and that the injuries as alleged herein were caused by the acts
 15 and/or omissions of such Defendants. Adherence to the fiction of the separate existence of these
 16 certain Defendants as an entity distinct from certain other Defendants would permit an abuse of
 17 the corporate privilege and would sanction fraud and/or promote injustice.

18 9. This complaint is pleaded in the alternative, pursuant to Rule 8(d)(2) of the Federal
 19 Rules of Civil Procedure.

21 **FACTUAL ALLEGATIONS**

22 The Jaded Toad Discriminated against Ms. Mughannam

23 10. On or about March 23, 2022, Ms. Mughannam went to The Jaded Toad with
 24 family and friends. Ms. Mughannam had been to the restaurant several times. She likes the food
 25 and the atmosphere, and that it is family friendly. On all previous occasions she had brought her
 26 service dog with her, without incident.

27 11. On this occasion, when the waitress came over to the table she told Ms.
 28 Mughannam that dogs were not allowed in the restaurant. Ms. Mughannam explained that Jax is

1 a service dog, not a pet. The waitress told her there were no exceptions. When Ms. Mughannam
2 objected, the waitress told her to go talk to the owner, who was sitting at the bar. Ms.
3 Mughannam was embarrassed that her whole party's outing was being held up, but she went to
4 talk to the owner to work out the issue so they could go on with their plan for a pleasant outing.

5 12. Ms. Mughannam approached the owner at the bar, Defendant Maples, and asked
6 him if he were the owner. He confirmed he was. Ms. Mughannam tried to explain that the
7 Americans with Disabilities Act permits service dogs to be in restaurants. Defendant Maples
8 asked her what her disability was. She told him that he could not ask that question, only two
9 specific questions about whether her dog was a service dog for a disability and what task it
10 performed. Defendant Maples cut her off, refusing to listen to her explanation of the law. He
11 said the restaurant's policy is no dogs, no exceptions. He told her that if she didn't like it, she
12 should call the police. During this conversation there were people all around, listening to the
13 conversation.

14 13. Ms. Mughannam did call the police, who came and spoke with both her and
15 Defendant Maples. They came back to her and said that they could not force Defendant Maples
16 to allow a service dog because it was a civil matter.

17 14. Ms. Mughannam left The Jaded Toad, feeling exposed and unwanted as a person
18 with a disability, and responsible that her family and friends' outing had been ruined because of
19 her disability-related needs.

20 15. Subsequently, Ms. Mughannam reached out to The Jaded Toad via a Direct
21 Message on its FaceBook page, providing it with information from the United States Department
22 of Justice about the rights of service dog users in restaurants, in hopes she could educate
23 Defendant Maples. She received an automated response, "Thanks for messaging us. We try to
24 be as responsive as possible. We'll get back to you soon." But no one ever responded.

25 16. Ms. Mughannam experienced humiliation, embarrassment, frustration and other
26 kinds of distress because of Defendant's insensitive and illegal conduct. As a result, Plaintiff
27 seeks general damages in an amount according to proof.

28 17. Based upon the conduct alleged above, Ms. Mughannam is informed and believes

1 that Defendant's behavior is intentional, and that it maintains discriminatory policies and
2 practices in conscious disregard of his civil rights and others similarly situated.

3
4 **FIRST CLAIM FOR RELIEF**
(For Violations of The Americans with Disabilities Act)

5 18. Ms. Mughannam re-pleads and incorporates by reference, as if fully set forth again
6 herein, the factual allegations contained in the preceding paragraphs.

7 19. Title III of the Americans with Disabilities Act ("ADA") prohibits discrimination
8 on the basis of disability by places of public accommodation, such as The Jaded Toad. 42 U.S.C.
9 § 12182.

10 20. Defendant Badii, LLC, owns, leases, and/or operates The Jaded Toad, a
11 restaurant, which is a public accommodation under the ADA.

12 21. Defendant Maples owns, leases, and/or operates The Jaded Toad, a restaurant,
13 which is a public accommodation under the ADA.

14 22. As owners and operators of a place of public accommodation, Defendants are
15 required to provide Ms. Mughannam, as a disabled person, "full and equal enjoyment of the
16 goods, services, facilities, privileges, advantages, or accommodations" of the business.

17 23. Defendants refused to serve Ms. Mughannam based solely as her status as a
18 person with a disability who uses a service dog.

19 24. As a result, Ms. Mughannam was denied full and equal enjoyment of and access
20 to Defendants' goods, services, facilities, privileges, advantages or accommodations in violation
21 of the ADA.

22 25. Defendants' discriminatory conduct is capable of repetition, which adversely
23 impacts Ms. Mughannam and a substantial segment of the disability community. Ms.
24 Mughannam has no adequate remedy at law to redress the discriminatory conduct of Defendants.
25 Ms. Mughannam desires to return to the Jaded Toad but is deterred from doing so because of
26 Defendants' discriminatory policies, practices and procedures. She would return if she were
27 certain that its discriminatory policies and practices had ended and her service dog would be
28 accepted. An injunction is necessary to ensure that the illegal policies and practices are changed

1 and do not recur.

2
3 **SECOND CLAIM FOR RELIEF**
4 **(For Violations of The California Disabled Persons Act)**

5 26. Ms. Mughannam re-pleads and incorporates by reference, as if fully set forth again
6 herein, the factual allegations contained in the preceding paragraphs.

7 27. The Disabled Persons Act provides that physically disabled persons are not to be
8 discriminated against because of their physical disabilities and that they are entitled to the same
9 equal access as other members of the general public to places of public accommodation, such as
10 The Jaded Toad. Cal. Civil Code § 54.1 (a)(1).

11 28. Defendants refused to serve Ms. Mughannam at their restaurant based entirely on
12 her status as a person with a disability who used a service dog, and in so doing, violated the
13 Disabled Persons Act.

14 29. A violation of the ADA also constitutes a violation of the Disabled Persons Act.
15 Civil Code § 54.1(d).

16 30. As a result of Defendants' discriminatory conduct, Ms. Mughannam has suffered
17 emotional distress, including mental anguish, violation of her civil rights and loss of dignity.
18 Accordingly, Ms. Mughannam is entitled to recover compensatory damages under the DPA,
19 including actual, statutory and treble damages.

20 **THIRD CLAIM FOR RELIEF**
21 **(For Violations of The Unruh Civil Rights Act)**

22 31. Ms. Mughannam re-pleads and incorporates by reference, as if fully set forth again
23 herein, the factual allegations contained in the preceding paragraphs.

24 32. The Unruh Act prohibits discrimination against physically disabled persons on
25 account of their disabilities and guarantees them full and equal access to "all business
26 establishments of every kind whatsoever." Cal. Civil Code § 51.

27 33. The Jaded Toad is a business establishment because it provides goods and services,
28 namely food, drink and associated amenities, in exchange for money.

34. Defendants refused to serve Ms. Mughannam at their restaurant based entirely on

1 her status as a person with a disability who used a service dog, and in so doing, violated the Unruh
2 Act.

3 35. Defendants' denial of services to Ms. Mughannam was knowing and intentional.
4 Both the waitress and Defendant Maples, the owner of The Jaded Toad and sole member of
5 Defendant Badii, LLC, expressly told Ms. Mughannam that the restaurant did not permit dogs,
6 "no exceptions." When given three opportunities to reconsider that position, Defendants
7 stubbornly maintained their discriminatory policy.

8 36. A violation of the ADA also constitutes a violation of the Unruh Act. Cal. Civil
9 Code § 51(f).

10 37. Defendants' discriminatory conduct is capable of repetition, which adversely
11 impacts Ms. Mughannam and a substantial segment of the disability community. Ms.
12 Mughannam has no adequate remedy at law to redress the discriminatory conduct of Defendants.
13 Ms. Mughannam desires to return to the Jaded Toad but is deterred from doing so because of
14 Defendants' discriminatory policies, practices and procedures. She would return if she were
15 certain that its discriminatory policies and practices had ended and her service dog would be
16 accepted. An injunction is necessary to ensure that the illegal policies and practices are changed
17 and do not recur.

18 38. As a result of Defendants' discriminatory conduct, Ms. Mughannam has suffered
19 emotional distress, including mental anguish, violation of her civil rights and loss of dignity.
20 Accordingly, Ms. Mughannam is entitled to recover compensatory damages under the Unruh
21 Act, including actual, statutory and treble damages.

22 WHEREFORE, Ms. Mughannam prays for relief as stated below.

23
24 **PRAYER FOR RELIEF**

25 A. For an order enjoining Defendants, their agents, officials, employees and all
26 persons acting in concert with them:

27 a. From continuing the unlawful acts, conditions and practices described in this
28 Complaint;

b. To train Defendant Maples and The Jaded Toad's employees and agents in how to accommodate the rights and needs of disabled persons;

c. To implement nondiscriminatory protocols, policies and practices.

B. Ms. Mughannam does not seek injunctive relief under Cal. Civ. Code § 55.

C. Award to Ms. Mughannam appropriate damages, including but not limited to statutory damages, general damages, treble damages and punitive damages, all according to proof;

D. Award to Ms. Mughannam all reasonable statutory attorney fees, litigation expenses, and costs of this proceeding as provided by federal and state law;

E. Grant such other and further relief as this Court may deem just and proper.

Date: November 9, 2022

DERBY, McGUINNESS & GOLDSMITH, LLP

/s/ Celia McGuinness

By CELIA McGUINNESS, Esq.
Attorneys for Plaintiff

SUMAYA MUGHANNAM

DEMAND FOR JURY

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

Date: November 9, 2022

DERBY, McGUINNESS & GOLDSMITH, LLP

/s/ Celia McGuinness

By CELIA McGUINNESS, Esq.
Attorneys for Plaintiff

SUMAYA MUGHANNAM